HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1248 of 2000

Dated:15.11.2006

Between:

Smt.Midathana Jogulamma.

…Petitioners

and

The Secretary, Revenue Department, and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1248 of 2000

ORDER:

Land admeasuring about Ac.1.00 in Survey Nos.7-25 and 7-26 situated at Pentasrirampuram Village of Gantyada Mandal in Vizianagaram District was assigned to one Gadela Pentayya. The petitioner herein, who is allegedly landless poor person, was inducted into possession in 1972 by the assignee, and in 1975 a permanent lease was given to the petitioner. The petitioner was cultivating the land. The fourth respondent initiated action under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'), and issued a show cause notice dated 28.11.1990. The petitioner did not submit any explanation. By proceedings dated 14.07.1991, the Mandal Revenue Officer passed orders for resumption of the land, aggrieved by which, the petitioner preferred an appeal under Section 4-A of the Act. Before the appellate authority, the petitioner contended that as the transaction is prior to coming into force of the Act and as she is landless poor person, she is entitled for exemption under subsection (5) of Section 3 of the Act. The appellate authority, however, rejected the appeal on 05.10.1992. The petitioner

again filed a Second Appeal before the second respondent and the same was dismissed on 08.07.1993. The Joint Collector also did not specifically go into the question of availability of benefit to the petitioner under Section 3(5) of the Act. Be that as it is, the petitioner submitted revision petition under Section 4-B of the Act before the first respondent, who by Memo bearing No.96881/Asn.I(3)/93-5, dated 18.01.1999, dismissed the same. This memo is assailed in the Writ Petition.

Though the Writ Petition was admitted on 04.04.2000 directing not to dispossess the petitioner, the respondents have not filed any counter affidavit.

Learned Counsel for the petitioner raised two contentions. According to the learned Counsel as the transaction relates to the period before coming into force of the Act, the Mandal Revenue Officer is not competent to take action under the Act. Secondly and alternatively, he would urge that as the transaction relates to 1972-1975, she is entitled for the benefit under Section 3(5) of the Act. He also submits that though number of grounds were urged including the ground based on Section 3(5) of the Act before the first respondent, without going into any reasons, the order was passed by the first respondent, which is unsustainable.

Learned Assistant Government Pleader for Revenue (Assignment) vehemently opposes the Writ Petition. He submits that when the matter was pending before the Mandal Revenue Officer three show cause notices were issued to the petitioner, but she did not appear nor raised the ground that she is entitled for the benefit under Section 3(5) of the Act.

The impugned order passed by the first respondent reads as under.

GOVERNMENT OF ANDHRA PRADESH
REVENUE (ASN.I) DEPARTMENT.

MEMORANDUM No.96881/Asn.I(3)/93-5
Dated:18.01.1999

Sub:- Revision Petition –Vizianagaram District – Revision Petition filed by Smt.Midathana Jogulamma against the orders of Joint Collector, Vizianagaram, for resumption of the land from her possession in S.No.7/25 Ac.0.52

cents and S.No.7/26 Ac.0.48 cents at Pentasrirampuram Village, Gantyada Mandal – Revision Petition dismissed – Connected records – Returned – Regarding.

Ref:- 1. From Smt.Midathana Jogulamma, Revision
Petition dated Ni.
2. Memo No.96881/Asn.I(2)/93-1 dt.25.1.94 and
7.6.93.
3. From the Collector, Vizianagaram District
Lr.Rc.No.1365/94 B3 dt.8.7.95.
4. From the CLR(I/c) A.P.Hyd. Lr.No.B/2041/95
dt.28.7.95 and Lr.No.B3/1899/98 dt.24.8.1998.

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The attention of the Collector, Vizianagaram District is invited to the reference cited.

2. After examining the report of the Collector, Vizianagaram District, it has been decided that the request of the petitioner deserves no consideration. Accordingly, the Revision Petition is, hereby, dismissed.

3. The connected records received through the Commissioner of Land Revenue, A.P., Hyderabad, letter fourth cited are returned herewith to the Collector, Vizianagaram District.

4. The Collector, Vizianagaram District, shall take necessary action accordingly. She is also requested to acknowledge the receipt of the records at an early date.

G.SUDHIR,
SECRETARY TO GOVERNMENT.

To
The Collector, Vizianagaram District (with encl.)
Copy to the Commissioner of Land Revenue, A.P., Hyderabad.
Copy to Smt.Midathana Jogulamma, Resident of P.S.Puram (v),
Gantyada Mandal, Vizianagaram District (through the MRO,
Gantyada, for service and return of served copy. etc.)

//forwarded : : by order//

Sd/-x x x,
Section Officer.

A copy of the revision petition filed by the petitioner before the Government is placed before this Court. The petitioner raised as many as eight grounds. She also raised a ground that she is a landless poor person and therefore entitled to the benefit under Section 3 of the Act, as the transaction was prior to 24.01.1977. Curiously, the Government appears not to have applied mind to any of the grounds urged. In one go, the revision petition was dismissed on the *ipse dixit* of competent Officer in the Government to the effect that the revision petition deserves no consideration. This is improper disposal of the revision petition under Section 4-B of the Act. On this ground alone the impugned order is unsustainable.

Accordingly, the impugned Memo bearing No.96881/Asn.I(3)/93-5, dated 18.01.1999, of the first respondent is set aside. The matter is remanded to the first respondent with a direction to consider all the grounds raised by the petitioner in the revision petition. Needless to point out that the question whether the petitioner is entitled to the benefit under Section 3(5) of the Act may be considered by the first respondent after duly getting an enquiry conducted by the Mandal Revenue Officer, Gantyada Mandal.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

15.11.2006
vs